IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.6027 OF 2005

1. Umesh Shankar Mahankal
2. Revan Hanmantu Waghmare
3. Ashok Vijay Udata
4. Manjunath Devidas Kantali
5. Mallesh Timappa Peddi ...Applicants

Vs.
The State of Maharashtra ...Respondent

Shri V.V. Purwant for the Applicants.
Shri A.S. Gadkari, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : OCTOBER 14, 2005.

P.C.:

1. Heard the Advocate appearing for the Applicants and the learned A.P.P. for the State. Affidavit of the Investigating Officer Shri. Vasant Balasaheb Gaikwad is tendered on record. In the said affidavit the Investigating Officer has explained the reasons for his absence on various dates fixed in this Court inspite of wireless messages sent by the Office of the Public Prosecutor. In paragraph Nos.2 to 6 he has explained the reasons why he could not remain present. In paragraph No.7, the Officer has tendered apology. Considering the explanation offered by the said Officer and the apology tendered by him, no further action is called for against the concerned Officer. Explanation offered by the Officer and apology tendered by him are accepted.

2. The Applicants are accused in an offence registered under sections 143, 302 and 506 of the Indian Penal Code. From the statements of the eye-witnesses it appears that the deceased consumed liquor in a restaurant of which the Applicant No.1 is the owner and the Applicant No.3 is the Manager. The Applicant No.4 is a waiter working in the said hotel. It appears from the version of the eye-witnesses that when the deceased was not in a position to pay the entire amount of bill, there was altercation between the person sitting at the counter and the deceased. The Applicant Nos.2 and 5 assaulted the deceased by hand and brought the deceased outside the hotel. Thereafter, allegation is that the other Applicants assaulted the deceased by hand. The cause of death as reflected from the Post Mortem Notes is head injury, contusion to brain. The Post Mortem Notes show that there are three abrasions over the upper part of the body including abrasion on the head. Even going by the version of the prosecution case, it is difficult to accept that section 302 of the Indian Penal Code will apply. Moreover, there are no criminal antecedents of the Applicant. Investigation has been completed and chargesheet has been filed. Considering the facts which are peculiar to the case, the

Applicants deserve to be enlarged on bail.

3. Hence, I pass the following order:

: O R D E R :

i) The Applicants shall be enlarged on bail in connection with **C.R.No.176 of 2005 registered with Sadar Bazar Police Station, Solapur City,** subject to furnishing a personal bond of **Rs.10,000/- each** with one or two local sureties in the like amount.

ii) The Bail is granted subject to condition that till the conclusion of trial the Applicants will report to the concerned Police Station once in a month.

iii) The Bail is granted subject to condition that the Applicants shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

iv) The Applicants shall co-operate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicants to delay the

trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE